

Libby Community Advisory Group

Meeting Summary

September 15, 2005

Introductions

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. A list of the members in attendance is attached below as Appendix 1.

Agenda

The CAG agreed to the following agenda for this meeting:

- W. R. Grace Medical Plan Letters
- Presentation by Dr. Tony Ward
- Agency Reports
 - EPA
 - State
 - TAG
 - CARD Clinic
- EPA Administrator's Visit
- Delegation Research Funding Letter
- Public Comment

W. R. Grace Medical Plan Letters

Dr. Alan Whitehouse, Dr. Brad Black, Tanis Hernandez, and LeRoy Thom reported on letters that members of the W.R. Grace Medical Plan (Plan) have recently received from HNA, the Plan Administrator. Dr. Black described the letters, which are included below in Appendix 2, as confusing and upsetting and not in the best interest of Libby people. He stated that the CARD Clinic has been fighting battles with HNA to get people covered by the Plan as a part of the Clinic's efforts to find resources to support asbestos-related health care. Tanis Hernandez summarized the letters which many but not all Plan members have received. There are two versions of the letter. One letter informs the recipient that she or he has "no findings" of an asbestos-related disease, but is being kept on the Plan. The other letter states that the recipient has some asbestos-related disease condition or illness. Ms. Hernandez also stated that beginning in July of this year, the Plan benefits have been greatly limited. Only one annual check up per year is guaranteed to be covered within the specified limits of the plan and the coverage of all other benefits will be determined by HNA case-by-case. Dr. Whitehouse then provided perspective about the meaning of the letters. He stated that most research to date has been conducted on chrysotile asbestos. This is the form of asbestos found in 95% of the commercial uses in the US in products such as pipe insulation and brake linings. A large majority of the chrysotile asbestos comes from Canada. Lung-related health effects of chrysotile have two forms, scarring of tissue inside the lung which progresses slowly into serious disease and plural plaque on the surface of the lung. A single plural plaque is used as a marker of asbestos exposure, but plural plaque often does not result in serious disease. The asbestos industry has attempted to classify asbestos effects as plural plaque in an effort to avoid paying compensation to victims of asbestos exposure. Libby asbestos is a different form of asbestos known as amphibole. Available research on amphibole mainly has been conducted in Australia and South Africa. Libby asbestos produces much different

effects in the lung than chrysotile. Amphibole disease affects the lung lining and produces 10 to 100 times more scarring (plaques). While disease in Libby runs the spectrum including asbestosis, plural plaque and mesothelioma, the majority of disease in Libby is plural disease and results in severe restriction of lung volume. HNA does not classify plural plaque as asbestos disease implying that not much is wrong when in fact plural disease can be very serious. Dr. Whitehouse stated that he has been fighting on behalf of Libby patients for five years and in court more generally for twenty years to prevent denial of benefits. HNA is classifying disease looking only at x-rays when the American Thoracic Society recommends looking at other factors as well including exposure history, the latency period, pulmonary function tests, and medical symptomology and history.

Audience Member Question - What do we do now?

Answer - Bring your situation to the attention of your medical provider and your lawyer.

Audience Member Question - How do we afford treatment without insurance?

Answer - The CARD will provide treatment. We need to be creative about finding funding to reimburse our costs. We have, for example, been looking to LAMP for funds. The CARD Clinic needs the support of this community.

Audience Member Question - Is there any appeal if HNA denies coverage under the Plan?

Answer- While one of two letters states that the recipient does not have asbestos-related disease, it does not remove the person from the Plan. The motive for this action is not clear.

LeRoy Thom read from the document included below in Appendix 3 which includes the February 11, 2000 letter from W. R. Grace CEO Paul Norris which was published in the *Western Montana News* and Mr. Thom's statement in response to the HNA letters. He stated that W.R. Grace should not be in charge of their own health plan. The Libby Asbestos Medical Plan (LAMP), referred to earlier by Dr. Black has paid out \$313,000 to fund treatment and screening not provided by the W.R. Grace Medical Plan. However, LAMP has restrictions on its ability to pay including a \$25,000 per person payment cap. LAMP also is subject to restrictions from W.R. Grace due to their close monitoring and auditing of LAMP. Libby needs to make a decision about how to proceed as a community. We need a trust fund run by the community to receive money from governmental and philanthropic sources to provide funding for health care. We could set up a committee to look into the trust idea and more generally to identify what Libby needs and what should be done in response to those needs. Commissioner Marianne Roose also stated that Senator Baucus is aware of the HNA letters and is seeking to attach a rider to legislation to assure funding for Libby asbestos-related health care. Mr. Thom proposed that the CAG send a letter of support for Senator Baucus' efforts.

Comment by Marianne Roose - I called, emailed, and faxed the Governor's Office in an attempt to get someone to come to this meeting tonight, but I wasn't successful.

Audience Member Question - What would be the level of commitment of a member of the committee?

Answer - The people who volunteer to serve would have to be dedicated.

Audience Member Question - What time frame are we considering?

Answer - We should send a letter to Senator Baucus in a week or so. We should begin work on the more general committee as soon as we can.

Audience Member Question - What about Social Security, could it be a source of funding for asbestos-related health care?

Answer by Tanis Hernandez - Social Security is not likely to be the answer for our funding needs. To receive funding one has to be severely disabled, and qualifying can take many years.

Audience Member Question - You mentioned that the Plan allows reimbursement for only one chest x-ray per year. Does this limitation also apply to CT-scans?

Answer by Tanis Hernandez - I am not sure. A one per year limitation for x-rays and CT-scans is what is "guaranteed" in the plan document. It is stated that everything else is case by case, so nothing is guaranteed; it is always up to HNA.

Audience Member Question - What can be done to get W.R. Grace to pay for health care?

Answer - W.R. Grace should pay, but look at the February 2000 letter. They do not do what they say they will. They are hiding under a cloak of bankruptcy. The lawyers in Kalispell are putting together a case for the bankruptcy court.

Audience Member Comment - According to Forbes Magazine, the W.R. Grace CEO receives the third highest compensation of any American company.

Audience Member Question - Could the trust fund come under LAMP?

Answer by LeRoy Thom - LAMP is a program of the Asbestos Related Health Care Project (ARHCP), which is a 501(c)(3). While ARHCP can receive funds, I do not know whether it could establish and administer a trust fund. I will find out.

Audience Member Question - Could LAMP author a petition of support for Senator Baucus' efforts?

Answer by LeRoy Thom - The CAG as representative of the community should send a letter rather than LAMP.

CAG Member Question - What should the letter say?

Answer - We should mention the two HNA letters and the reduction in benefits and support any legislative effort to help us with our health care needs.

Comment by Dr. Black - When Health and Human Services Deputy Secretary Claude Allen visited us some years back, he promised us help with health care funding if we needed it. He didn't see an immediate need because of the W.R. Grace Medical Plan. When EPA Administrator Johnson visited here recently, I sat next to him at lunch and reminded him of our need for HHS dollars. He said that he would visit with HHS Secretary Leavitt.

CAG Action - The CAG agreed to send a letter to Senator Baucus and the other members of the Montana Congressional delegation supporting his efforts to obtain health care funding for Libby. David Latham agreed to draft the letter based on the comments read earlier in the

meeting by Mr. Thom (see Appendix 3). A sheet was passed through the CAG and the audience for signatures to send with the letter. The letter is to be sent in a week. The CAG also agreed to the formation of a committee to begin to explore establishing a community administered trust fund to hold funds for asbestos-related health care.

Dr. Tony Ward Presentation

Dr. Ward is a Research Assistant Professor in the University of Montana Center for Environmental Health Sciences. At the May 2005 CAG meeting, he described research to determine a safe way to log tree stands in the restricted area around the W.R. Grace mine. A bark sampling plan has been developed in conjunction with the US Forest Service, Lincoln County, EPA, CDM, and the Montana Department of Environmental Quality. The plan involves sampling bark of trees at different points on concentric circles at varying distances from the mine site. Bark samples will be taken at different heights above the ground. The sampling will determine if a gradient of asbestos contamination exists in tree bark emanating from the mine site. Dr. Ward noted that the CAG had asked for sampling in town. These samples have since been collected, with the samples currently being analyzed. Dr. Ward also announced that ATSDR has provided funding to conduct additional bark sampling in Libby.

Audience Member Question - Would you be willing to go to bat for us in challenging timber sales if the USFS offers timber in the restricted area around the mine?

Answer - I will always be available to objectively present the data or make recommendations when appropriate, but timber sales decisions lie outside my realm of expertise. As a scientist, it is my job to gather and present scientific data of the highest quality, from which such decisions can be made.

Comment by Catherine LeCours – The USFS is not planning such sales.

Audience Member Question - Are you planning to study the wind data and attempt to trace asbestos concentrations backwards in time?

Answer – From a previous meeting in Libby, I have learned that Jim Christiansen has suggested that tree concentrations may be a surrogate for determining soil concentration gradients from the mine. Asbestos in trees may enable us to trace exposures back to decade-long time periods, such as between the 80s-90s, etc (10 year increments). The University of Montana is also proposing to do some atmospheric modeling that will determine the extent of any asbestos plume in the Libby valley which might emanate from the mine site, and potentially provide some information on historical asbestos exposures.

Audience Member Question - Would asbestos in the trees present an exposure pathway for loggers?

Response by Peggy Churchill - This is not a known exposure pathway.

EPA Report

Peggy Churchill reported on behalf of EPA on the following topics.

Cleanup Numbers - This year to date, EPA has completed cleanups on a total of 160 Libby properties. Task orders for additional cleanups have been issued to three companies, ER, Libby

Restoration and EQM.

Helipad Cleanup - Cleanup of the helipad is continuing.

September 14 and 15 Workshop - For the past two days, EPA has conducted a workshop in Libby on the Superfund process and several technical cleanup issues.

October 11 Pubic Meeting - On Tuesday, October 11, at 6:30 p.m. EPA will conduct a public meeting in Libby to discuss where we have been and where we are going regarding the cleanups. We will discuss the preparation of the cleanup record of decision. Public comment on the decision document will be needed. Max Dodson, the Assistant Region 8 Administrator will be in attendance. Mr. Dodson is the official empowered to sign the record of decision.

Audience Member Comment - Our home and yard was recently cleaned by ER. The work was well done and went quickly. We now have a yard more beautiful than before the cleanup.

Audience Member Comment - When will cleanups be shut down for the winter?

Answer - As in past years, actual cleanups will stop during the winter, this year from December 1 to late February or early March. CDM staff will remain here over the winter.

New Assignment - Wendy Thomi reminded that CAG that she has accepted a one year temporary assignment in EPA Region 2 and the World Trade Center Team. This meeting will be her last in Libby. She introduced Ted Linnert who is her replacement. Mr. Linnert said that he is looking forward to working with the people of Libby, and that it will be hard to fill Ms. Thomi's shoes.

State Report

Catherine LeCours stated that there was no state report.

TAG Report

The TAG has hired a new technical advisor, Dr. Gerry M. Henningsen. Dr. Henningsen has a Doctor of Philosophy Degree and a Doctorate in Veterinary Medicine. He is a toxicologist who formerly worked for EPA and the Public Health Service. He now lives in Indiana.

CARD Clinic Report

Dr. Black and Dr. Whitehouse have visited the Karmanos Cancer Center and next week travel to the Mesothelioma Applied Research Foundation (MARF) conference in Las Vegas. MARF just issued a press release about the work Dr. Harvey Pass and Dr. Black are conducting regarding a mesothelioma blood marker. The press release can be found at

<http://www.marf.org/marfFrames/DetectionStudyFrame.htm>.

EPA Administrator's Visit

LeRoy Thom reported that EPA Administrator Johnson visited Libby for four hours on August 24, 2005. Peggy Churchill stated that he made a tour of the cleanup sites, and that while the visit was brief, it was useful in assuring the cleanup budget. Dr. Black noted that he sat next to the Administrator over lunch and was able to visit with him in more depth than expected. Dr. Black

was able to emphasize the difference in the Libby asbestos fiber and in the disease that exposure to it produces.

Delegation Research Funding Letter

In the absence of Clinton Maynard, who volunteered to draft the letter for the CAG, this item was postponed.

Public Comment

There was no additional public comment.

Next Meeting

The next CAG meeting was scheduled for 7:00 to 9:00 p.m. on Thursday, October 13, 2005 in the Ponderosa Room of Libby City Hall.

Appendix 1

CAG Member & Guest Attendance List September 15, 2005

Members	Group/Organization Represented
Bill Patten	St. John's Lutheran Hospital
K.W. Maki	Libby Schools
Mike Giesey	CARD Clinic
Ken Hays	Senior Citizens
David Latham	<i>The Montanian Newspaper</i>
Ted Linnert	EPA Community Involvement
Wendy Thomi	EPA Community Involvement
Peggy Churchill	EPA Project Manager
Catherine LeCours	DEQ
Dr. Brad Black	Lincoln County Health Officer/CARD
LeRoy Thom	Former Grace Employee
Gary D. Swenson	Libby Volunteer Fire Department
Les Skramstad	Asbestos Victim
Guests	
John Wardell	EPA Montana Office
Alan Whitehouse	CARD Clinic
Dr. Tony Ward	University of Montana Center for Environmental Health Sciences

Appendix 2
HNA Letters

Appendix 3

In The Western News, February 11, 2000, the following message was delivered:

“To the People of Libby and all Montanans:

Much concern has been raised about the former vermiculite mine in Libby, which was operated by Grace from 1963 to 1990. I take these concerns very seriously.

It is not possible in this space to address all of the issues that have been raised. But I do want you to know our fundamental position.

First and foremost, we must be honest and respectful of one another.

Second, the community and people of Libby deserve our support. To provide it we have committed to the following:

- Grace will donate up to \$250,000 a year for the foreseeable future to St. Johns Lutheran Hospital to provide independent health screening to anyone in Libby who is concerned about asbestos exposure.
- Grace will assure St. Johns has the necessary staff and technology to conduct the independent screenings.
- Grace will provide medical coverage to anyone in Libby who, after receiving an independent screening, is diagnosed with an asbestos-related disease.

Third, we will continue to work cooperatively with local, state and federal agencies to ensure that appropriate actions taken to protect and preserve the health of those associated with the mine.

Finally, we will honor this commitment even if people are involved in legal action or in the alternative dispute resolution process. We will honor this commitment whether or not the pending national legislation passes.

We have always trusted the people of Montana. We always will. You may be sure that throughout these difficult times, we will continue to work to earn your trust.

Sincerely, (signature) Paul Norris, CEO, W. R. Grace & Co.”

While the people of Libby have found out through the years about W. R. Grace’s honesty, respect, and trustworthiness, the time has now come to understand the depth to which Grace will go to undermine this community. Not only have they destroyed our environment, they are now working to destroy the very dignity of our people. Not only do they dispute financial responsibility for the cleanup, but also now they are working to determine if you are sick or not because of exposure to Libby asbestos-laden vermiculite.

From afar, Grace’s hired radiologists (frequently used by industry in court cases) are telling you if you have asbestosis, asbestos related disease (ARD), or other abnormalities. Then the claims administrator “plays doctor” with your life and the provision of medical coverage they promised you would have if diagnosed with ARD. Directly stated in their new plan document (July 1, 2005) on page 7. Paraphrased as “The claims administrator makes all determinations and will consider (at it’s discretion) information, documentation, diagnosis and peer review. The claims administrator determinations in this regard will be final and binding on all parties. This allows the claims administrator to make determinations without following the standards established by

American Thoracic Society (an organization of lung specialists). This sets the stage to further diminish their responsibility for your medical future.

Many of you recently received a letter, dated September 6, 2005, regarding interpretations of your findings from the W R. Grace Libby Medical Program. There were two versions of the letter, along with individual reports. These letters classify you in one of two groups -those with an asbestos related condition or illness or those with no findings of asbestos related conditions. Along with your report, there is a summary of the benefits Grace will now pay. These benefits have been scaled back over the years, especially with the new plan document that was just released last month. Now the unquestionable benefits consist of an annual checkup, pharmacy, and a limited number of health club membership, but everything else is left up to interpretation by the W.R. Grace Libby Medical Program. So just don't get sick! And, be sure to contact them for further consultation and assistance!

The letters have worked to scare people, and to discredit the work of the entire medical community that deeply cares about the people harmed by asbestos from the Zonolite mine. You and your doctor look at your total health picture to determine your disease or well-being. There are many facets of diagnosing ARD, but Grace only reviewed the X-rays and CT scans. The letter may lead you to believe you are not suffering from ARD, but your body may be telling you something different.

At this time, the community must once again go shoulder to shoulder, stand by each other, not to diagnose disease: but to hold W. R. Grace accountable for what they knowingly did to our people. With a united voice, we cannot allow Grace to continue theft dirty tricks to turn us against each other. The bottom line is that if Grace can get out of paying for the health care benefits that this community deserves, because of the underlying asbestos exposure and ARD that make people vulnerable to other health complications and sickness, they will have gone a long way to crippling the entire health care delivery system in Libby. The LAMP Safety Net can only go so far.

The typical response to this letter has been confusion, anger, and frustration. The medical language is not understood by the patient and his/her family, and much can be read into the findings, good or bad. The reports are sometimes two years old, some as much as five years old. Why are they coming now? Could it be timing for the bankruptcy court, or the federal indictments, or the recent request to move the trial out of Montana because of negative publicity towards them? Could it be setting the stage for denying even more claims? Could it be to lull people into a false sense of well-being, or to confuse and distract people about what disease(s) they really have?

Tonight we will openly discuss the community's response to this latest barrage by Grace. But, above all, we know this community will rally around its citizens, stand firm, and help each other to take care of our people.